

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

United States <i>ex rel.</i> White, <i>et al.</i> , Plaintiffs, vs. Rite Aid Corporation, <i>et al.</i> , Defendants.	Case No. 1:21-cv-01239 Judge Charles E. Fleming
PLAINTIFFS-RELATORS' MOTION TO VOLUNTARILY DISMISS CERTAIN CLAIMS WITHOUT PREJUDICE UNDER FED. R. CIV. P. 21	

After consultation with the United States, Relators Andrew White, Mark Rosenberg, and Ann Wegelin (“Relators”) wish to voluntarily dismiss all non-intervened claims in their Second Amended Complaint (ECF 13). Thus, Relators respectfully move to dismiss, without prejudice, the following individual claims:

COUNT V (Violation of California False Claims Act)

COUNT VI (Violation of Colorado Medicaid False Claims Act)

COUNT VII (Violation of Connecticut False Claims Act for Medical Assistance Programs)

COUNT VIII (Violation of Delaware False Claims and Reporting Act)

COUNT IX (Violation of District of Columbia False Claims Act)

COUNT X (Violation of Florida False Claims Act)

COUNT XI (Violation of Georgia False Medicaid Claims Act)

COUNT XII (Violation of Illinois False Claims Act)

COUNT XIII (Violation of Indiana False Claims and Whistleblower Protection Act)

COUNT XIV (Violation of Louisiana Medical Assistance Programs Integrity Law)

COUNT XV (Violation of Maryland False Health Claims Act)

COUNT XVI (Violation of Massachusetts False Claims Act)

COUNT XVII (Violation of Michigan Medicaid False Claims Act)

COUNT XVIII (Violation of Nevada False Claims Act)

COUNT XIX (Violation of New Hampshire False Claims Act)

COUNT XX (Violation of New Jersey False Claims Act)

COUNT XXI (Violation of New York False Claims Act)

COUNT XXII (Violation of North Carolina False Claims Act)

COUNT XXIII (Violation of Oklahoma Medicaid False Claims Act)

COUNT XXIV (Violation of Rhode Island False Claims Act)

COUNT XXV (Violation of Tennessee Medicaid False Claims Act)

COUNT XXVI (Violation of Texas Medical Assistance Program, Damages, and Penalties Act)

COUNT XXVII (Violation of Vermont False Claims Act)

COUNT XXVIII (Violation of Virginia Fraud Against Taxpayers Act)

COUNT XXIX (Violation of Washington Medicaid False Claims Act)

Because the United States' Complaint in Intervention did not assert claims against the following Defendants and Relators are dismissing all remaining claims against them, the following Defendants should be dismissed from this action without prejudice:

Rite Aid of Alabama, Inc.

Rite Aid of Florida, Inc.

Rite Aid of Georgia, Inc.

Rite Aid of Illinois, Inc.

Rite Aid of Indiana, Inc.

Rite Aid of Kentucky, Inc.

Rite Aid of Maine, Inc.
Rite Aid of Massachusetts, Inc.
Rite Aid of New York, Inc.
Rite Aid of South Carolina, Inc.
Rite Aid of Tennessee, Inc.
Rite Aid of Vermont, Inc.
Rite Aid of Washington, D.C., Inc.
Rite Aid of West Virginia, Inc.
Thrifty Payless, Inc.
Thrifty Corporation
Eckerd Corporation
Maxi Drug North, Inc.
Maxi Drug South, L.P.
Maxi Drug, Inc.
Brooks Pharmacy, Inc.
Genovese Drug Stores, Inc.
Apex Drug Stores, Inc.
Perry Drug Stores, Inc.

Fed. R. Civ. P. 21 provides, in relevant part, that “On motion or on its own, the court may at any time, on just terms, add or drop a party. The court may also sever any claim against a party.” Rule 21 is the proper rule for dismissing fewer than all claims and parties from an action. *See Philip Carey Mfg. Co. v. Taylor*, 286 F.2d 782, 785 (6th Cir. 1961). When dismissing claims under Rule 21, such a dismissal should be done without prejudice unless there is plain prejudice as a result. *See Crozin v. Crown Appraisal Grp., Inc.*, No. 2:10-CV-581, 2012 WL 139219, at *2–3 (S.D. Ohio Jan. 18, 2012).

Counsel for Plaintiffs-Relators have conferred with Defendants' attorneys who have no objection and consent to the filing of this notice and the dismissal of these claims without prejudice. Undersigned counsel represents to the Court that Relators have solicited the consent of the United States and the States, and it is Relators' understanding that the United States and the States will notify the Court of their positions directly.

Relators wish to dismiss only certain claims and defendant entities and Defendants consent. Therefore, the Court should grant Relators' Request to drop the claims and defendant entities as outlined above.

Dated: July 24, 2023

/s/ Per Consent

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Respectfully submitted,

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